IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REV. APPLICATION NO.195 OF 2005

Mahadeo Dhondu Shinde .. Applicant

Versus

Mrs.Asha Mahadeo Shinde & Anr. .. Respondents

Mr.Prakash Naik for applicant

Mr.Pravin Desai for respondent No.1

Mr.Y.M.Nakhwa, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 9th November 2006.

P.C.

. Mr.Naik appearing for applicant original accused in support of this revision application,

submits that the Judicial Magistrate, F.C. Mahad committed no error while deciding Regular Criminal Case No.97 of 2002 when he convicted the applicant under section 494 of I.P.C. and directed him to undergo sentence for one day. Mr.Naik submits that the trial Judge had categorically recorded the submissions of the applicant that he would pay the fine amount and would not challenge his conviction any further. In such circumstances, the trial Judge took a lenient view of the matter and despite conviction did not award the sentence as prescribed by law. In such circumstances, there was no warrant for the learned Sessions Judge to have interfered with the discretion of the trial court in revision and set aside the order in that behalf.

2. I am not impressed with this submission. The Revisional Court while interfering with the order of the trial court on 18th December 2004 has assigned cogent and satisfactory reasons.

The learned Sessions Judge has observed that he would be failing in his duty if he does not interfere in revisional jurisdiction. The punishment was wholly inadequate and disproportionate so also contrary to the mandate of the Legislature. In such circumstances, on the limited point of sentence, the matter was remanded by the learned Sessions Judge vide impugned order.

3. In my view, instead of observing anything further, it would be appropriate to maintain the order of remand. The said order sub-serves interest of justice. It gives an opportunity to the applicant as well to make submissions. Learned Sessions Judge has not interfered and awarded sentence in his revisional jurisdiction but thought it fit to remand the application on that point. He has seen to it that the applicant has an opportunity to make appropriate submissions and place all material in that behalf

before the trial court. By such a course of action, I do not feel that any error apparent on the face of record has been committed nor the order of the learned sessions Judge has resulted in manifest injustice. It is not shown to me as to how the order under challenge suffers from any material irregularity resulting in manifest injustice. There is no warrant to exercise Revisional Jurisdiction conferred upon this Court. Revision application is dismissed.

(S.C.Dharmadhikari, J)